

**Previous S.16 Applications**

**Rejected Applications**

<b>Application No.</b>	<b>Uses/ Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-PK/121	Temporary Place of Recreation, Sports or Culture (Hobby Farm and Ancillary Barbecue Site) for a Period of 3 Years	17.8.2018	R1 – R3

**Rejection Reasons:**

- R1 The development was not in line with the planning intention of the “Green Belt” (“GB”) zone which is intended primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- R2 The development was not in line with Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the development would affect the existing natural landscape.
- R3 The approval of the application will set an undesirable precedent for similar applications within the “GB” zones. The cumulative effect of approving such applications would result in a general degradation of the landscape quality of the area.

**Recommended Advisory Clauses**

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) resolve any land issues relating to the development with the concerned lot owner(s) of the Site;
- (c) to note the comments of the District Lands Officer/North, Lands Department on the following:
  - (i) the occupation area is larger than the Site. The existing structures on the Site were erected without approval from his office. The total built-over area and number of structures are larger than those under the application. The unauthorized structures are not acceptable under the Leases concerned. Illegal occupation of Government land is also found. His office reserves the right to take enforcement actions against the unauthorized structures and unauthorized occupation of Government land. Meanwhile, the applicant should make his own arrangements for acquiring access. The Government shall accept no responsibility in such arrangements; and
  - (ii) the owners of the lots concerned may apply for a Letter of Approval (L of A) to regularize the structures erected on the application lots. However, the L of A application has to be supported by Agriculture, Fisheries and Conservation Department (AFCD). If the application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and a Short Term Tenancy (STT) covering all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW and STT applications are approved, their commencement date will be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office;
- (d) to note the comments of Director of Environmental Protection (DEP) on the following:
  - (i) "Livestock" means pigs or poultry under Waste Disposal Ordinance (WDO, Cap 354). Within Livestock Waste Control Area, a livestock keeper must apply for licence from the Agriculture, Fisheries and Conservation Department and comply with the Waste Disposal (Livestock Waste) Regulations (Cap 354A), except those exempt persons listed at Fourth Schedule under the WDO; and
  - (ii) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP in order to minimize any potential environmental impact;
- (e) to note the comments of the Commissioner for Transport that the vehicle access from Fan Kam Road to the Site is not managed and maintained by her department;

- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape of Planning Department on the following:
- (i) the approval of the landscape proposal does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO/N, LandsD for approval; and
  - (ii) useful information published by the Greening, Landscape & Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available for reference in the following links:
    - Pictorial Guide for Tree Maintenance:  
[https://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Pictorial\\_Guide\\_for\\_Tree\\_Maintenance.pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf);
    - Handbook on Tree Management:  
[https://www.greening.gov.hk/tc/tree\\_care/Handbook\\_on\\_Tree\\_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html);
    - Tree Risk Assessment and Management Arrangement:  
[https://www.greening.gov.hk/tc/tree\\_care/tra\\_arrangements.html](https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html);
    - Minimising Tree Risks:  
[https://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Chinese\\_Leaflet\\_Big\\_font\\_size\\_v1\\_2012\\_03\\_29.pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf); and
    - Pictorial Guide for Tree Maintenance to Reduce Tree Risks:  
[https://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf);
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the Site is in an area where no public sewerage connection is available;
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:
- (i) if the existing structures are erected on leased land without approval of BD not being a New Territories Exempted House, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
  - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (iii) for UBW erected on leased land, enforcement action may be taken by BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;

- (iv) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations respectively; and
  - (v) if the Site is not abutting a specified street having a width not less than 4.5m, the development intensity shall be determined by the BA under Regulation 19(3) of the B(P)Rs at the building plan submission stage;
- (i) to note the comments of the Director of Fire Services on the following:
- (i) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by the BD; and
  - (ii) detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans;
- (j) to note the comments of the Director of Agriculture, Fisheries and Conservation on the following:
- (i) that the need for tree conservation should be duly considered in using the Site so as to avoid causing any damage or disturbance to the existing trees and the surrounding environment; and
  - (ii) the Site is located in the Livestock Waste Control area. For raising pigs in the livestock waste control area, livestock keeping licence from his Department must be obtained; if any person who owns or keeps in or on his premises in any livestock waste control area one pig, including, in the case of a sow, the unweaned litter of that sow is exempted from obtaining a livestock keeping licence from his Department but still subject to the requirements of environmental regulations. Apart from the livestock keeping licence issued, exhibition licence for any paid exhibition of animals/ birds should be considered if the animal farm is for recreation and tourism purpose; and
- (k) to note the comments of the Director of Food and Environmental Hygiene on the following:
- (i) if the operator intends to operate a restaurant business in the territory, a general restaurant/ light refreshment restaurant license should be obtained from Food and Environmental Hygiene Department (FEHD) in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant Government departments, such as Buildings Department, Fire Services Department, Planning Department, Lands Department (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements;
  - (ii) for the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. Besides, a Fresh Provision Shop licence is required for any person who intends to sell fresh, chilled or frozen beef,

mutton, pork, reptiles (including live snake), fish (including live fish) and poultry at any premises before commencement of such business. The application for Food Factory Licence/ Fresh Provision Shop Licence, if acceptable by FEHD, will be referred to relevant Government departments, such as PlanD and LandsD (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements. FEHD will institute legal action against any person who operates a food business without a valid licence; and

- (iii) the operation of the eating place must not cause any environmental nuisance to the surrounding. The refuse generated by the proposed eating place are regarded as trade refuse. The operator of the hobby farm should be responsible for the removal and disposal of the refuse generated by the hobby farm at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity.